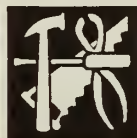
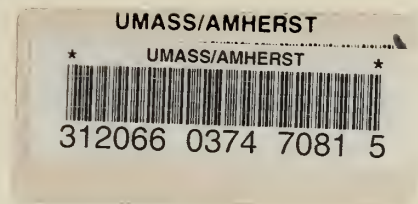


MASS. SS 2.2: P 92



PRESERVATION PLANNING MANUAL

Local Historical Commissions: Their Role In Local Government

Published by the Massachusetts Historical Commission
A Division of the Office of Secretary of State
80 Boylston Street Boston, MA 02116
(617) 727-8470

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August 1987

GOVERNMENT DOCUMENTS
DEC 2 1988
University of Massachusetts
Department of History

802 / 356

This publication has been funded with the assistance of a matching grant-in-aid from the Department of the Interior, National Park Service, under the provisions of the National Historic Preservation Act of 1966.

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This Publication was written by
Sarah Zimmerman
and replaces the Massachusetts Historical Commission's
"Local Historical Commission" manual.

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FOREWORD

Historic Preservation in Massachusetts depends on strong involvement at the local level. In fact, successful programs for the preservation of historic resources can only be accomplished where committed and knowledgeable local preservationists actively participate in local government. In Massachusetts, the local historical commission is the official preservation advocate within local government. The development of effective local historical commissions in each of the Commonwealth's 351 cities and towns is critical to achieving the goal of preserving Massachusetts' rich heritage of historic places.

Chapter 40, Section 8d of the Massachusetts General Laws allows any city or town that accepts the provisions of this act to establish a local historical commission. One of the intentions of this manual is to provide information on how local historical commissions can implement Chapter 40, Section 8d to plan for historic preservation in their communities. The full text of Chapter 40, Section 8d is appended. To date, some 340 communities in Massachusetts have established local historical commissions.

Once a local historical commission is established, the next step toward implementing an effective local historic preservation program is to plan for the identification, evaluation, and protection of the community's significant historic resources. The major purpose of this manual is to assist local historical commissions in developing effective local historic preservation programs. Such programs are based on a comprehensive knowledge about the

community's resources, a sound understanding of preservation tools and techniques, and a realistic approach to the role of the local historical commission as an extension of municipal government.

Valerie A. Talmage
Executive Director
Massachusetts Historical Commission
State Historic Preservation Officer

INTRODUCTION

Local historical commissions are part of a great and important movement to preserve and protect our national heritage. The history of preservation in America goes back to a time when, in the 1850s, 1860s and 1870s, the fate of such "shrines" as George Washington's Mount Vernon, the old Massachusetts State House, and the Old South Meeting House in Boston hung in the balance, threatened by decay, development pressures, and neglect. Mount Vernon, for example, was to be demolished to allow for the construction of a hotel.

At that time, a few stalwart individuals, many of them women, driven by their deep respect for the "last visible reminders of a proud past" (With Heritage So Rich 1964:39), committed their will, their energy, and their funds to purchase these national landmarks and thus preserve them for all. Often, these were eleventh-hour efforts, dependent for success on resounding pleas to national pride or on well-placed appeals to the pocketbooks of wealthy "angels." Efforts such as that of Mount Vernon's savior, Miss Ann Pamela Cunningham, inspired preservationists to attempt the impossible.

Such efforts still have their place today. Preservationists are not shy to take up the banner of "impossible" causes, whether that cause is the preservation of Mount Vernon or the 1850s commercial block downtown. But since the 19th century, many important tools have been added to the preservationist's arsenal.

The first historic district was established in Charleston, South Carolina in 1931. It was followed

shortly thereafter by the establishment of the Vieux Carre district in New Orleans in 1937 and, in 1954 and 1955, by the establishment of historic districts on Beacon Hill and in Nantucket. The 1960s and 1970s witnessed vast growth in federal programs affecting communities--both in urban renewal and other entitlement programs and in support for historic preservation. Other tools for preservation were developed at this time, including the National Register, Preservation Restrictions, and Acquisition and Development grants to historic properties. Historic preservation is now, in the 1980s, into yet another cycle as the federal presence diminishes in preservation and other areas of local and state government.

Preservation in the 1980s and beyond must respond to decreasing federal funds and to the decentralization of government functions away from the federal government and toward the states and localities. As these processes continue, local preservationists will play an increasingly important role in protecting our heritage. To be effective, local historical commissions must plan carefully to meet the challenge of these changes.

Massachusetts long ago recognized the impossibility of preserving its unique cultural resources solely through the efforts of the Massachusetts Historical Commission. The MHC's role has been to set statewide preservation policy and to provide local and state agencies, and the public, with technical assistance and information on historic preservation matters. While the MHC can help local preservationists, it is important to remember that the Commonwealth's heritage is found in its cities and towns, and it is at this level that preservation solutions must be put into place.

Local historical commissions must commit themselves to preservation in their communities knowing that the resources they are protecting are their own. It is critical that cities and towns develop historic preservation programs that reflect and respond to the unique resources and identities of each community. This manual provides points for consideration and planning, information on successful methods to achieve preservation goals, and technical information on the tools available to preservationists. It's up to the local historical commissions to put together preservation programs that work for their communities.



Purpose

CHAPTER ONE



Purpose of a Local Historical Commission

Local historical commissions are agents of local government. Their most important goal is the preservation of the community's historic places. The purpose of a local historical commission is to work toward this goal by planning for and implementing programs for the identification, evaluation, and protection of its community's historic resources. Planning is the essential first step in developing an effective local preservation program.

A municipal agency itself, the local historical commission works in cooperation with other municipal agencies to insure that the goals of historic preservation are considered in planning for future development of the community. To be effective, local historical commissions must be active participants in local planning efforts. The agencies local commissions work with most frequently are boards of selectmen, planning boards, historic district commissions, community development offices, and conservation commissions.

The local historical commission should also coordinate with other local groups whose interests involve history or historic preservation. Local historical societies, arts councils, libraries, and schools often have interests similar to those of local historical commissions in fostering pride in community identity. The local commission should serve as the liaison between these groups on matters pertaining to historic preservation programs. Finally, it is the local commission's mandate to be the local municipal "watchdog" for state and federal preservation agencies, alerting them to local preservation issues.

Votes to Establish a Commission

A local historical commission may be established in a town that accepts the provisions of Chapter 40, Section 8d by a majority vote at town meeting or in a city which accepts the provisions of Chapter 40, Section 8d by a majority vote of city council. The town counsel or city solicitor should be consulted to determine the appropriate wording for the vote of acceptance and the vote establishing the historical commission. Note that the Office of the Attorney General has recommended that both votes be taken to establish a commission.

Establishing a local historical commission

Notice of Establishment

Under the Massachusetts General Laws Chapter 4, Section 5, the town or city clerk must send notice of the town or city's acceptance of Chapter 40, Section 8d to the Commissions Division, Office of the Secretary, Room 340, State House, Boston, 02133. This notification should include the date of acceptance and, for convenience, the names and addresses of the historical commission members. Copies of this notice and membership should also be sent to the Massachusetts Historical Commission. It is prudent also to notify the local planning board, conservation commission, community development office, neighborhood development agency, or regional planning commission, when such exists, in order that these agencies may contact the historical commission when working on projects that might affect historic properties.

Appointment of Members

An historical commission must have from three to seven members, who are appointed in a town by the selectmen or by the town manager, subject to the selectmen's approval, and in a city by the mayor or by the city manager, subject to the provisions of the city charter.

Commission members serve three-year terms. The appointments must be arranged so that the terms of office of approximately one third of the members expire per year.

Whenever new appointments are made to existing commissions, current membership lists should be sent to the MHC and to any other municipal agencies working with the local historical commission.

Many of Massachusetts' 340 historical commissions are inactive. If you do not know whether your community has voted to establish an historical commission, contact the town or city clerk or the Preservation Planning Division of the MHC. Records noting the establishment of local historical commissions are kept on file locally and at the MHC.

If you wish to reactivate the local historical commission in your community, it is not necessary to take a revote. You should contact the board of selectmen or city council to determine the status of any existing appointments to the commission and to request that new appointments be made to fill any vacancies.

Reactivating a local historical commission

Local Historical Commissions, Historic District Commissions, and Historical Societies

Adoption of the provisions of Massachusetts General Law Chapter 40, Section 8d establishes the local historical commission as a public agency of local government. Unlike an historic district commission (which has a regulatory, design review authority over any changes to properties in a designated local historic district), the local historical commission generally has only advisory powers. However, through Chapter 40, Section 8d, the local historical commission is empowered to interact with other public agencies, such as the planning board, conservation or historic district commissions, community development office, building inspector, and board of selectmen or city council.

There's a difference!

As an agent of local government, the local historical commission acts in the public's interest with regard to historic preservation concerns within the community. Its role, mandate, and outlook differ from those of a local historical or preservation society in that it must uphold legally mandated responsibilities and standards (i.e., conflict of interest laws, open meeting laws, annual reporting) that may not pertain to private organizations. An example of the local commission's public responsibility is in environmental review. Local historical commissions have a legally defined commenting role in planning for environmental impacts at the local level that local historical societies do not.

Despite differences in focus between societies and commissions, there are many shared concerns and many

opportunities for cooperation. Local historical society members provide the commission with valuable expertise and assistance. On tasks such as the inventory, local historical societies have much to offer. In many communities, the historical society has undertaken extensive research on the community, its buildings, and the lives of people associated with the community's development.



CHAPTER TWO



Planning for Local Preservation

Preservation planning methods are laid out in two major documents: the Secretary of the Interior's Standards for Planning, published by the National Park Service, and Cultural Resources in Massachusetts; A Model for Management, published by the Office of the Massachusetts Secretary of State. These two planning documents set out in detail the philosophical and organizational structure within which preservation planning takes place at the state and federal levels. While the wording of these documents is sometimes complex, the concepts are relatively simple. Local historical commissions should consider these concepts in developing their own approaches to preservation planning.

Both the Secretary of Interior's Planning Standards and the Model for Management emphasize the importance of evaluating cultural resources (buildings, structures, objects, districts, and historic and archaeological sites) within their "historic context." The context for a resource is the temporal, geographic, and thematic setting within which the resource developed. In order to know why a property is important, you must understand the events and patterns of your community's history that influenced that property's development. This takes a comprehensive knowledge about the community's past.

*Evaluate cultural resources
within their historic context*

Once the context of the community's history is understood, goals and priorities for the preservation of historic properties should be established. These priorities should take into consideration the nature of the threats to historic properties that are present in the community. They

Set goals and priorities

should be used to set a schedule for the completion of survey and National Register work and for the implementation of other protective mechanisms for the preservation and protection of historic properties. Finally, preservation planning efforts should identify the ways in which protection of historic properties can be incorporated into overall planning efforts in the community.

Developing a Plan of Action

All local historical commissions should consider developing a "Plan of Action" that incorporates the three steps discussed above as a means of setting goals for their work in the community. The basic work of preparing a Plan of Action for preservation can take place at any time. Whether it is a formal written document, distributed throughout the community, or a simple set of goal statements adopted by the commission at one of its meetings, the Plan of Action should guide the direction and efforts of the commission. The Plan of Action should reflect the three major planning steps. It should:

- develop an understanding of the historic context of resources in the community;
- identify goals and priorities for the preservation of the community's historic resources; and
- identify ways in which protection of historic resources can be incorporated into overall local planning efforts.

The first step in developing an action plan is to get to know your community's history and character: read the county histories to see how your community relates to the overall development of your region; study old maps and photographs to get a sense of the physical development of your community over time; review the MHC town and regional reports for your community. Follow up your review of the community's history with a visual analysis of its current physical character. Take the commission for a drive down all the old roads in the community, noting those aspects that you think make your community special. Some things to consider are: the density of development in the community; the presence of significant open spaces; the size, materials, age, and design of the buildings in a neighborhood; the ways in which neighborhoods relate to one another;

Develop a Plan of Action

Know your community's history

the existence of specific buildings, complexes, districts, or spaces that are critical to a broad understanding of your community's history or physical character. Make a list of these qualities and note their presence on a community base map.

Next, review the factors affecting historic resources in your community and establish preservation goals based on those factors. Some issues affecting Massachusetts' historic resources are: development pressure for new construction in suburban, rural, and resort areas, and in areas adjoining major transportation routes; abandonment, neglect, and decay of historic resources in rural areas and in economically distressed areas; poor quality or insensitive "rehabilitations"; random or unwarranted demolition; and lack of support for a "preservation ethic."

Identify threats

Consider the preservation tools available (see Chapter 4, "Tools of the Trade") and identify those tools that can help your commission address its preservation needs. For example, if your community faces development pressure that threatens its historic character, the commission might adopt a multi-pronged approach that includes: working with the planning board and conservation commission to identify critical natural and historic resource areas for master planning and preservation; reviewing the community's zoning bylaws for inclusion of a commenting role for the commission in site plan and subdivision reviews; preparing a demolition bylaw; and delineating areas for local historic district consideration.

Learn what preservation tools are available

If lack of community support for preservation is an issue, the local commission might consider developing a major public information and education campaign to engender community pride. Such a campaign might include: regular newspaper articles on the commission and the community's historic resources; a lecture series on local history jointly sponsored with the local historical society; walking tours of neighborhoods; and development of materials on local history and architecture for school curriculum enrichment.

Where the inventory for the community is incomplete or unevaluated, local commissions might consider developing budget proposals for funding completion of the survey by a professional consultant or preparation of a community-wide National Register nomination.

Compile a list of the factors affecting the community that are linked with those goals and

actions the commission has identified for preservation and protection. Set a schedule for implementation of these goals with priorities for those that are most critical.

Finally, consider the ways in which the commission's preservation goals can be implemented. Identify the existing programs, agencies, organizations, and people the commission needs to work with to accomplish its goals; the resources and programs the commission will need to develop in order to achieve its goals; and the time-frame within which the goals can reasonably be accomplished. Set out the results of this effort as the commission's Plan of Action.

Creating a Positive Climate

Before even preliminary planning can be effective, the climate for preservation in the community must be right. While there are many approaches to the accomplishment of preservation goals, it is the MHC's experience that there are five critical aspects to creating a positive climate for preservation. Local Commissions must:

- bring a positive, confident approach to their role in the community;
- establish good constructive relations with the public and with other government bodies;
- develop a strong understanding of historic preservation programs and procedures, and of their own community's history and governmental structure;
- cultivate annual funding at some level, even if the budget is small;
- follow clearly defined administrative procedures.

As activists, preservationists are often called upon to react quickly to the latest threat to an historic property, and justifiably so. Because so many threats to historic resources stem from private actions, of which there is often little or no warning, preservationists will, from time to time, find themselves reacting from a "crisis mentality," regardless of their efforts to plan ahead for preservation. Nevertheless, there are many ways to prepare for the crises that are part of the preservationists' lot. A positive approach to crises is often the foundation for the construction of a successful solution.

Use a positive approach

One of the best ways to prepare for crisis situations is to maintain a reasonable and open attitude toward preservation in your community. Recognize that change is an inevitable part of community life. Seeing historic preservation as a way to prevent change from taking place in your community is counter productive and unrealistic.

Keep an open mind

Too often, preservationists are perceived as obstructionist, fanatical, or elitist characters. It is important to remember that preservation is not a veto to change; preservation puts forward a set of goals that should be considered and accommodated as part of change. Local commissions need to work to develop their role as negotiators and to learn to compromise when it is appropriate. By being reasonable and open within the community, commissions gain the public's trust.

Preservation is not anti-change

Another aspect of maintaining a positive approach is to know your priorities and to choose your battles wisely. Setting priorities takes planning. Commissions must be thoroughly familiar with their community's cultural resources and with the ongoing pressures and patterns of their community's development. By establishing preservation priorities before crises occur, commissions have the freedom to step back and consider the best approach to the immediate issue.

Choose your battles wisely

When crises arise, consider the benefits and liabilities of your response. In choosing your battles, think about the manpower available in your community to help you make your case, and consider how important the resource is to the community and how you can achieve its preservation. You will lose some battles. But you can win the important ones if you are careful in deciding when it's worth it to fight.

When you do decide to take on a major issue, be confident. Don't sell your commission short. Some commissions see their role in the community as a losing one. They perceive that someone or something (the board of selectmen, the building inspector, developers, or the town counsel) is "out to get them." This attitude generates distrust, suspicion, and a feeling of having lost before you've begun.

Be confident

Commissions have a useful and significant contribution to make to the community. It is their responsibility to recognize and foster pride in those aspects of the community's history that give it its character and identity. In the public's mind, commissions may be endowed with "powers" to

regulate and protect resources that go beyond the commission's actual legislative mandate. Clearly, commissions cannot abuse this perception by overreaching their authority. Nonetheless, the public's perception of the commission's "powers" to preserve can be used wisely to generate support for the commission's efforts.

Finally, be creative. Look for new solutions to issues facing the commission. Many commissions, for example, have great difficulty obtaining funding for their work through the municipal budget process. One commission, having found it impossible to get funds appropriated to them, held an auction to raise operating funds. Another commission, which failed to convince the town and state departments of public works to pay for the proper repair of an historic stone arch bridge, rallied their forces (which included a structural engineer and a mason) and in one day repaired the bridge themselves.

Be creative

Maintain a reasonable and open attitude, choose your battles wisely, be confident, and be creative: these are some things to consider in bringing a positive approach to the commission's role in the community.

Constructive Public Relations

Two of a commission's most important audiences are municipal government and the general public. As a public agency, the commission has responsibilities to local government to serve in the public interest. The public interest is further served through the work the commission does to preserve and enhance the community's historic character.

It is absolutely critical to the commission's success for it to develop constructive working relationships with other municipal bodies and the public. Clearly, the most pertinent relationships to develop are with those bodies that influence the physical character of the community: the planning and zoning boards, the community development office, conservation and historic district commissions, and board of selectmen or city council.

*Develop good relationships
with other community agencies*

For preservationists, the building inspector may be the most pivotal preservation decision-maker in the community. It is worth making a special effort, for example, to develop a working relationship with the inspector or the building department. One of preservation's maxims is that it's too late to save a building once the demolition permit has been

granted. A commission's efforts in the area of demolitions must begin well in advance of actions against a specific building.

Commission members should make it a point to attend meetings of municipal boards regularly and to participate constructively in their discussions whenever appropriate. At the least, commissioners should be well aware of actions pending before these boards that would affect cultural resources so that they can be prepared to respond knowledgeably.

Attend the meetings of other community boards

One of the best ways for local historical commissions to participate in municipal decision-making is by providing other boards with background information on the historical, archaeological, or architectural significance of areas, buildings or sites under discussion by those boards. This is one of the most immediately obvious and beneficial public uses of the inventory. Many communities regularly supply municipal boards with such information. Through these efforts, the inventory becomes an integral part of community planning.

Provide other boards with information

To publicize their own business, local historical commissions should make it a practice to post public notices and circulate agenda of their meetings to other municipal decision-makers. Minutes recording commission decisions should also be filed with the city or town clerk and circulated to key boards and individuals. This increases the commission's visibility in municipal government and enhances the image of the commission as a responsible public agency.

There are many other ways for commissions to educate the broader community about local historic preservation goals. Among the ideas for commissions to consider are:

Educating the community about preservation

- running a series of articles on historic properties in the local newspaper;
- developing a local architecture and preservation resource shelf at the public library (including copies of the community's inventory or National Register nominations so property owners can find out about their buildings);
- conducting lectures on local history and buildings for your school system (the fourth grade curriculum, for example, requires that local history be taught);

- organizing walking tours of historic and architecturally significant neighborhoods;
- preparing a simple fact sheet for distribution at the library or town hall;
- letting people know what the commission does, the kind of information it maintains; and
- having a contact person(s) to answer questions.

Publications are another excellent way to increase the commission's visibility and credibility in the community. Survey publications that present information developed from the inventory or through a community-wide National Register nomination have longlasting value to the community as a local history sourcebook.

Grant money for publications is occasionally available from the MHC; however, local sponsors can often be approached for publication costs once the basic data of the inventory or National Register nomination has been gathered.

Know your Community

To be credible, local commissions must have a thorough understanding and working knowledge of their community's cultural resources and history, the workings of local government (and politics!), and the nature of historic preservation programs.

Achieving these goals takes commitment on the part of individual commission members and sharing of expertise and assignments among the commission as a whole. It's unlikely that one member will bring expertise to the commission in all three areas. However, all members should make an effort to become generally familiar with the events of their community's history, its cultural resources, the basic structure and personalities of their local government, and the state and national historical preservation programs (Survey, the National Register, Tax Act, Environmental Review, Preservation Restrictions, and Local Historic Districting).

Conducting research on places of historic or archaeological value is one of the major responsibilities of local historical commissions, as cited in Chapter 40, Section 8d. It is expected that the local historical commission will be the

local municipal authority on the community's cultural resources, unless the commission delegates that responsibility elsewhere. This means knowing what the community's significant resources are and why they are important.

Information on the community's history is usually gained from published sources such as local histories. However, most local histories in Massachusetts were written at the end of the 19th century. Aside from the obvious fact that these do not cover more recent events, 19th century local histories often report only the positive or illustrious aspects of a community's past, skipping over conflict or other "unpleasant" subjects. Furthermore, these histories concentrate on the community's "heros"--military, clerical or business leaders. While these aspects of local history are important, they tell only part of the story of a community's development.

In conducting its research, local commissions should consider sources that present a broad picture of past community life: atlases, maps, old newspapers and photographs, directories, and census data provide information on the myriad of buildings, people, and activities that make up a community's identity.

Commissioners should be familiar with the patterns of the community's development. The MHC has prepared draft reports for most communities in Massachusetts as part of its overview survey of the state. These reports cover all periods of a community's development from 1500 to 1940, and include information on transportation routes, settlement patterns, population growth, economic activities, and architecture. The reports are useful in providing a summary history of the community and are used by the MHC for planning and decision-making. All commissions should obtain copies of the "Town Report" for their community and review the reports for accuracy. The town reports should be distributed to all commissioners as part of a "New Members" information package.

Consider the broad patterns of community development

Through the inventory and National Register properties in the community, commissioners should also be able to recognize the importance of specific areas and individual buildings. The MHC can provide commissions with lists of all inventoried and National Register-listed properties in the community.

Find out what preservation options are available

Local commissions also need to develop a strong understanding of the major state and federal historic preservation programs. The National

Use National Register criteria

Register criteria, for example, are the standard by which preservationists judge the significance and architectural integrity that all properties must possess in order to be worthy of preservation. The National Register criteria also recognize that properties that may only be important for their contribution to one community's history are just as worthy of preservation as those we all recognize as "landmarks." The criteria encourage the preservation of locally significant properties. Local preservationists need a general understanding of the National Register program, and should use the National Register criteria as their standard for decision-making about what properties to preserve. By evaluating properties against the criteria, local commissions can make consistent decisions and more easily justify those decisions to others.

In addition to knowing how the National Register criteria work, local commissioners should know such basics as the differences between National Register and local historic districts; what the state can do to protect properties under state and federal environmental review provisions; and what economic incentives are available for historic properties (including Investment Tax Credits, Preservation Restrictions, and the Massachusetts Preservation Projects Fund).

It is equally important for local commissions to know the ins and outs of local government and politics. At the least, a basic familiarity with the community's annual administrative and financial cycle and its major boards and officials is imperative. Take the time to learn how your local government works.

Know your local government

Cultivating positive relationships with the community's leaders is crucial to the commission's success. Develop a sense of who the commission's friends and enemies are (this usually doesn't take too long.) and then try to identify why they support or criticize the commission. Realize and accept that these are the forces (positive and negative) that will affect the way the commission can operate. Look for potential leaders and inform them of the commission's goals and programs.

Cultivate annual funding

Commissions can even use conflict as a way to educate. One commission has dealt with some of its most vociferous opponents by asking them to join the commission, where they have come to understand and support the commission's preservation mandate.

A good way to ensure the long-term viability of the commission is to develop some level of annual

funding. It goes without saying that there are few problems money won't solve, but even at comparatively low levels, an annual budget goes a long way toward enhancing the commission's professionalism. Used wisely, even small amounts of money can keep established a productive and effective commission. There are several underlying reasons for commissions to request funds--even if you don't get the money--this year!

First, in order to receive funding, a commission must be able to publicly justify the expenditure of community funds on its work. This means that commissions must set goals for their work that are relevant to the public interest and fill a demonstrated need within the community. To set such goals, commissions must plan. They must take stock of the factors affecting the community--growth, stagnation, shifting demographics, leadership or the lack of it--and identify a useful role for themselves as preservationists. What are the products the community can use? How best can the community's historic character be preserved, protected, and enhanced? The commission should also identify specific tasks to be achieved and establish a time frame within which the work can be accomplished.

Have clearly defined goals

The planning process forces the commission to examine its role and its responsibilities to the community, and to develop coherent and explicit local preservation goals. Even if funding is not achieved, the benefits of such a process are positive. The groundwork for future funding is laid, and goals for the commission are established.

When the commission receives funding, it becomes accountable to the community for the expenditure of those funds. While public accountability for monies spent is a necessary burden, it also has benefits that can enhance the commission's professionalism. First, commissions must show results from their work. Products, such as inventory forms, National Register nominations, historic district study reports, and pamphlets or brochures demonstrate the commission's achievements to the public and to municipal leaders. Such products should be available and maintained in a location where the public has ready access to them.

Be able to show results

Secondly, commissions must provide records to prove that funds were spent correctly and as directed. This means that commissions have to develop administrative and record-keeping skills. Maintenance of files and records of the commission's activities must also be public. This is another way

Be accountable

of ensuring the commission's longevity through establishment of an "institutional memory" that will not fade if commission membership changes significantly over time.

Finally, receipt of an annual budget helps a commission to establish a "track record." Municipal leaders will be more willing to foot the bill for a larger scale "Special Project" expenditure (such as hiring a consultant to prepare a community-wide National Register nomination or a Preservation Plan) if they have confidence that the commission has responsibly administered funds and successfully completed projects in the past.

A strong administrative structure with clearly defined procedures helps local commissions act fairly and consistently. Historic district commissions are particularly vulnerable if they fail to adopt well-defined procedures, but all commissions, regardless of their legal responsibilities, should strive to maintain good administrative practices.

Use good administrative procedures

The enabling legislation for local commissions lays out the basic administrative requirements: commissions shall keep accurate records of their meetings and actions and shall file annual reports; commissions should also meet at regularly scheduled times and in a public space; they should conduct business according to the Massachusetts open meeting and conflict of interest laws; and they should keep all records and files in a safe but publicly accessible place.

By conducting their business in an orderly and consistent fashion, local commissions improve their decision-making and instill public confidence and trust.



Duties

CHAPTER THREE



Duties of a Local Historical Commission

Chapter 40, Section 8d defines two broad areas of activity for local historical commissions: those tasks that are required of all commissions, and those that are left to the discretion of each individual commission. It is clear that the legislators who drafted the Chapter intended all local commissions to perform certain basic duties, such as cooperating with the State Archaeologist. But they also wished individual commissions to have the freedom to consider a wide range of activities and to choose a program focus that made sense locally, given the community's historic, financial, political, and human resources. They gave local historical commissions broad opportunities for preservation action.

Chapter 40, Section 8d identifies five responsibilities for all commissions established under the Chapter. These are:

Mandated responsibilities

- conducting research on places of historical or architectural value;
- cooperating with the State Archaeologist in conducting surveys and reporting on sites;
- coordinating with other preservation organizations;
- keeping accurate records of its actions and filing an annual report; and
- maintaining a membership of not less than three nor more than seven members, duly appointed by the appropriate municipal official.



Optional responsibilities

Beyond these five responsibilities, local commissions are free to undertake any number of activities for the purpose of preserving, protecting, and developing the historic and archaeological assets of the community. Local historical commissions may:

- prepare and distribute publications;
- make recommendations to the city council, board of selectmen, and MHC;
- hold hearings;
- enter into contracts and other agreements;
- accept gifts to further its work;
- hire staff; and
- acquire property in the community's name.

These "permissive" duties allow the local historical commission to develop an effective local program for preservation that is based on the needs and desires of the community. The opportunities for action that are open to local commissions go far beyond the simple activities cited above and are as varied as each of the 351 cities and towns of Massachusetts. Examples of a few of the activities undertaken by Massachusetts commissions are included in the following discussion of local historical commission duties.

Responsibilities

Inventory Completion

Each historical commission is expected to compile and maintain the inventory of the community's historic assets. The inventory must be comprehensive for all types and periods of resources. It must be representative of all areas, buildings, structures, and sites that are historically, architecturally, archaeologically, or culturally significant to the city or town. At a minimum, the inventory must contain information locating the property, documenting its historical, architectural, and/or archaeological significance within the overall context of the community's development, and depicting it through photographs.

Inventory must be comprehensive

Use MHC survey forms and methodology

The MHC cannot defend historic properties from adverse effect caused by publicly funded projects unless it has adequate information concerning the properties' significance on file; therefore, the originals of all inventory forms should be submitted directly to the Commission. The local historical commission should retain copies of each form for its own use, and should make sure that the town or city planning department has direct access to the information on the forms. Local historical commissions are encouraged to augment their files with additional information of local interest. Like all commission records, inventory files must be maintained in a safe and publicly accessible space.

The MHC has developed standard inventory forms for use by local commissions. Since MHC inventory forms have been designed to provide information to researchers, state and federal planning agencies, and local, state, and federal preservation organizations, the Commission urges their use in all communities. To assist commissions in completing an inventory, the MHC has published the "Historic Properties Survey Manual" guidelines for use in completing a comprehensive community inventory, and a sample scope of work for inventory projects. These materials are available free of charge from the MHC.

The Preservation Planning Division staff is available to assist local commissions, to discuss inventory methodologies and strategies for the completion of inventories, and to explain the inventory forms in detail. While site visits to the community are done by staff members, it is helpful if members of the commission can arrange to meet with staff at the MHC's offices to discuss the survey and other preservation planning issues of concern to the commission.

Many commissions have found it difficult to complete a comprehensive community-wide inventory. Currently, about one third of the Commonwealth's cities and towns have completed comprehensive inventories. Another third have partially completed inventories, while, the remainder have little or no, or very out of date, inventories. As opportunities to fund comprehensive surveys through federal grants diminish, creative solutions to the challenge of completing the surveys must be sought.

Traditionally, local historical commissions have done survey work themselves, as volunteers. But there are many possible approaches to this task. The commission could establish a special "survey subcommittee" of volunteers from various sources

Volunteers can help

such as (the local historical society, Boy Scouts, high school students, retired people, or homemakers) to conduct the inventory under the supervision of one of the members of the commission. In Barnstable, one of the Commonwealth's largest and most complex towns, the Barnstable Historical Commission was able to hire one part-time staffperson to supervise such a subcommittee of volunteers and thereby completed the bulk of the town's inventory.

Another commission that "piggybacked" the efforts of paid staff with volunteer assistance was the Hadley Historical commission. With partial assistance from a MHC Survey and Planning grant, the Hadley Commission was able to hire a preservation consultant who worked with a group of local high school students to complete the town's inventory. The students, who learned to research properties at the county registry of deeds, are now enthusiastic local historians and fledgling preservationists!

Small-town commissions can also take advantage of the Yankee Intern program as a vehicle for completing their survey. Jointly sponsored by the National Trust for Historic Preservation and Yankee Magazine, the Yankee Intern program provides college-age interns for a twelve-week period.

Organizations sponsoring Yankee Interns pay for a portion of the intern's salary. Several commissions, including Pepperell and Hanover, have completed their surveys with help from Yankee Interns.

Still other commissions have successfully argued that the comprehensive inventory is a valuable planning tool to which the community should pledge its financial support. The towns of Hatfield, Hingham, Brookfield, Seekonk, Spencer, and Warren have all gained town funding for survey completion projects.

Cooperation with the State Archaeologist

The local historical commission is mandated to cooperate with the State Archaeologist in conducting research on sites of archaeological value. Therefore, the local commission should make sure that prehistoric and historic archaeological sites are included in the inventory.

Archaeological remains, both historic and prehistoric, are often literally overlooked by historical and architectural researchers. But the

below-ground remains of past uses of the cultural landscape are extremely important and fragile resources. They can often (through the presence of artifacts of daily life such as ceramics, tools, food and other wastes, and structural features) give a more accurate and fully drawn picture of how the area was used and by whom than even the most detailed documentary history. Just as important, archaeological resources remind us that we are only the most recent occupants of land that has supported human civilization for some 10,000 years.

Archaeological sites are jeopardized by indiscriminate natural and man-made changes to the landscape. Furthermore, sites are extremely vulnerable to looting and destruction by "hunters," unscrupulous individuals who care only for the monetary value of archaeological objects and the cultural information sites can yield if carefully and systematically excavated by qualified archaeologists. Therefore, it is critical that local commissions take an active role to protect sites by working with the State Archaeologist and by maintaining confidentiality about historic and prehistoric sites.

*Keep archaeological sites
confidential*

Specifically, the location of sites should not be made public, since this often encourages site looting. But information about sites should be reported to the State Archaeologist at the office of the MHC. The State Archaeologist will include site information in MHC's confidential inventory and will be able to help protect the site from damage that might result from state or federal projects. If a local commission wishes to conduct a survey or investigation of an archaeological site on publicly owned land, it must obtain a permit from the State Archaeologist. Persons competent in archaeology should supervise any such survey or investigation.

One commission that has been particularly successful in integrating archaeological concerns within overall local planning concerns is the Wayland Historical Commission. Specific responsibility for implementation of the archaeological component of the Wayland Historical Commission's work is delegated to a subcommittee, the Wayland Archaeological Group. The Wayland Archaeological Group has been instrumental in completing archaeological surveys of the town of Wayland, resulting in the identification of many prehistoric sites. They have also worked closely with the town in identifying development projects that might have an impact on sites and in conducting archaeological investigations of town-owned archaeological sites.

Coordination with Other Organizations

All local historical commissions should seek to coordinate with other local groups, private and public, that are concerned with, or involved in, historic preservation. These groups may include historic district commissions, arts councils, historical societies, conservation and planning organizations, and educational institutions. The local historical commission can ensure that local preservation efforts are not duplicated and should act as a clearinghouse to transmit information on all community preservation activities to interested individuals or groups.

The local commission should also serve as the liaison between the MHC and local historical or preservation organizations. The MHC will encourage this liaison by informing local commissions when private groups and individuals contact the MHC regarding local preservation matters. To the extent possible, the MHC will also keep local commissions informed of public actions affecting localities. However, the volume of such contact precludes the MHC from informing local commissions in each instance.

*Act as a clearing house for
preservation information*

Procedures

By conducting its affairs in an orderly manner, the commission can make sound, consistent decisions, instill public confidence in its competence, and ensure that the public's interest is served. It is important for commissions to establish a strong administrative structure with clearly defined procedures. While local historical commissions are not subject to the same procedural requirements as historic district commissions, they should nonetheless set some basic guidelines for their administration of business.

In addition to following the standard open meeting and conflict of interest requirements, local commissions should consider adopting a standard meeting agenda and format for minutes. It is also helpful to assign specific responsibilities for program areas to individual commission members and to incorporate status reports from those members at each meeting. The procedure outlined in Robert's Rules of Order, or the procedure normal to town meeting or city council meetings, may be used as a model for the commission in adopting a set of procedures.

*Adopt standard meeting
procedures*

The two major procedural requirements for local commissions are to hold open meetings and to uphold the conflict of interest statutes of the Commonwealth. All local commission meetings must adhere to the Massachusetts Open Meeting Law (M.G.L. Chapter 39, Section 23A-c).

Open Meeting Law

The Open Meeting Law requires that commissions and committees hold open meetings, the dates of which must be announced at least 24 hours in advance. Open ballots or voice votes are required in an open meeting, and no visitor may speak without permission. Failure to give the required public notice will not invalidate actions taken at the meeting, but this can be bad public relations as well as a cause of legal complications. In order to discuss and vote on matters that might, if made public, adversely affect "the financial interest" of a town or city or "the reputation of any person," a commission may vote to go into an executive session. Otherwise, all commission decisions must be made in a public forum.

Local commissions should encourage public reaction and comment on their activities through posting a notice of their meetings in a public location (city or town hall); holding meetings in public spaces (city or town hall, library, high school); and recognizing members of the public who wish to comment at meetings. It is helpful if the commission includes in its notice an agenda of the items to be discussed at the meeting. Commission meetings should be held at regular intervals, at least four times per year.

The other major procedural requirements for local commissions to follow are the conflict of interest and financial disclosure statutes. For purposes of these two statutes, local historical commission members are considered special municipal employees and are therefore subject to the statutes' provisions.

Conflict of Interest Law

The conflict of interest law, Chapter 268A, was enacted in 1962 and applies to all employees of state, county, and municipal government, whether elected or appointed, full or part time, paid or unpaid. It prohibits the most flagrant abuses of the public trust, such as bribery and extortion, as well as other activities and relationships which could compromise the official actions of public employees. The law serves a preventative as well as a punitive function: it defines situations that public employees and officials must avoid so as not to abuse the public trust inherent in their employment.

With the enactment of the financial disclosure law (Chapter 268B) in 1978, Massachusetts joined forty other states and the federal government in requiring public officials and employees to disclose certain financial interests. The Massachusetts law requires disclosure of interests and associations that may create a potential for conflict between an individual's official responsibilities and private associations and holdings.

Financial disclosure

Basically, the word of caution is, if you think you may have a conflict of interest or may need to disclose a financial interest in any matter before the commission, check with your town counsel or city solicitor or with the Massachusetts State Ethics Commission. The State Ethics Commission issues confidential advisory opinions to individuals who may be subject to the provisions of these laws. Advisory opinions may also be sought from the town counsel or city solicitor.

Conflicts of interest arise when you, a member of your immediate family, your employer, or someone associated with you in your business may have a financial interest in any matter under discussion by the commission. Generally, to avoid the conflict of interest, you must disclose your potential conflict to the commission and refrain from any participation in the matter (including discussion and voting).

Records and Reporting

The local commission must prepare and present an annual report to the board of selectmen or city council. The annual report should summarize the commission's achievements and activities for that year, outline the expenditure of its budget and any other funds dispersed, and update the status of its membership.

The annual report enhances the commission's municipal standing and demonstrates its accountability and presence. Presentation of a report builds awareness within municipal government about the commission's work and strengthens the commission's image. The annual report also gives the commission an opportunity to reflect on its program and to set goals for the future. A copy of the annual report should be forwarded to the MHC.

Do an annual report

As part of its responsibilities as a public agency, the local commission must maintain its records for the public's use and information. The historical commission is required to keep accurate records of its meetings and actions. It is important that the

Keep accurate public records

commission have office or file space set aside for its use in the town or city hall since the commission's records should be safely stored. In addition, because these materials are a public record, they should be kept in a public place.

By maintaining accurate records of its meetings and actions, local commissions establish an "institutional" memory that is not affected by the comings and goings of individual members, who may take their knowledge and experience with them when they leave. Good record keeping reinforces the local commission's accountability to the public and documents the ways in which the public interest is served. All of this helps to instill public confidence in the commission and enhances the commission's image as a fair and open organization.

Opportunities

In addition to the responsibilities ascribed to local commissions, there are a number of other activities local commissions may choose to undertake as their community's official preservation agency. Chapter 40, Section 8d cites several general "permissive" duties, but local commissions in Massachusetts have developed widely varying local preservation programs that extend well beyond the suggestions of the Chapter and demonstrate the myriad of possible activities open to commissions. It is through these permissive duties that local historical commissions can find their greatest opportunities for preservation action.

Planning

Local historical commissions should become involved in overall local planning processes. By broadly defining commission powers and duties, Chapter 40, Section 8d encourages local commissions to engage in a variety of preservation planning activities at the local level. Preservation planning is the combination of these various activities in a programmatic response to the general issues confronting historic properties in your community. All of the activities open to commissions can be used to develop local planning programs. The programs and activities chosen by each local commission should be part of a planned response to the individual circumstances of its community.

Tailor preservation plans to the community's needs

Specific planning activities commissions can undertake include: completion of the inventory;

nomination of properties to the National Register; preparation of preservation plans; participation in master planning and open space planning for the community; and establishment of various laws, such as those for historic districts, zoning and easements, management of property or funds, education, and public information.

By thoughtfully evaluating its own strengths and weaknesses as well as those of its community, and by developing manageable programs in response to that examination, local commissions can become effective local planners for preservation.

Publications

A major goal of the local commission should be to increase the public's awareness about the values of historic preservation in general and about the significance of their own community's resources in particular. Publications are a valuable method of educating and informing the community at large. Subject to appropriations by the city or town government, historical commission may prepare, print, advertise, and distribute books, pamphlets, maps, charts, and plans concerning history or historic preservation. The distribution of published materials must be consistent with the city's or town's policy on selling publications prepared by municipal agencies.

Broaden public awareness

Publications need not be ambitious or expensive to be effective. Simple brochures or one- or two-page hand outs on various issues can be quickly and inexpensively produced for general distribution. Perhaps the cheapest and most effective method of communicating with your community on a regular basis is through the local newspaper. A series of articles on historic preservation benefits or on the community's historic houses can gain the commission valuable public exposure and interest.

Otherwise, commissions might consider publishing a city or town history, printing copies of the inventory, creating pamphlets for self-guided walking tours, preparing a guide to historic houses in the community, celebrating an important anniversary in the community with a commemorative booklet, or producing a booklet on a specific preservation project.

Commissions with successful publications include: Arlington, Belmont, Fall River, Somerville, Yarmouth, and Worcester, all of which published the results of their comprehensive surveys as local

histories; Concord, which published a history of its community based on an oral history project; Amherst, which published Lost Amherst, a book of historic photos graphically depicting the changes to the town's landscape within the 20th century; Becket, Hadley, Lawrence, and Newton, which have all produced walking tour brochures for historic neighborhoods; and East Bridgewater, Stoughton and Worcester, which have published historic maps showing prominent local landmarks.

Commenting Role

Local commissions have an advisory role within local government. As such, they may make recommendations to the board of selectmen or city council on matters relating to the protection and preservation of historic areas, buildings, structures, and sites. The following are examples of such recommendations:

a. Comments on major demolitions or development proposals affecting historic properties. Commissions should ask to be included in planning and zoning board notifications so as to be informed of business pending before those bodies. Local commissions should base any comments they submit to such boards on reliably documented information and should thoroughly research any property under consideration that is not already well documented in the inventory. It is helpful if commissions can suggest preservation alternatives to proposed projects when they comment on proposals (see Chapter Four, "Tools of the Trade").

b. The appointment of an historic district study committee to investigate the possibility of establishing historic districts under the Historic Districts Act, MGL Chapter 40C. If the historical commission makes adequate studies and decides that a district or districts should be established, it may recommend that the board of selectmen or city council appoint an historic district study committee to investigate the feasibility of creating a district or districts.

c. The acceptance or acquisition by the historical commission in the name of the city or town of real estate having historic or architectural significance, or personal property having historic or cultural significance. The commission may also recommend preservation restrictions.

The MHC strongly urges local commissions to recommend acquisition of preservation restrictions

Comment on:

Demolition and development proposals

Historic districts

Acquisitions

for key historic properties. This leaves the property on the tax rolls and provides for protection of the property at the same time. While enforcement of preservation restrictions may involve legal expenses, these would generally be less burdensome to a community than the maintenance and liability costs of outright property ownership in fee simple. It is wise to obtain approval for acquisition of fee or less than fee simple interest from the board of selectmen or city council at an early stage.

d. Suggestions for the architecturally sensitive use, restoration, reuse, or maintenance of historically significant properties owned by the city or town. As a municipal agency, the local commission should take a particularly active role in monitoring the condition and use of municipally owned property. With the passage of Proposition 2 1/2, cities and towns became increasingly constrained in their ability to maintain municipal property. Establishment of the Massachusetts Preservation Projects Fund in 1984 made grant monies available to municipal and nonprofit-owned properties that are listed in the State Register of Historic Places. City and town halls, libraries, and schools are often among the community's most distinguished and beloved buildings. Their preservation deserves special consideration from local commissions.

Reuse and maintenance of public property

Reuse of municipal buildings, especially schools, is another area of priority for local commissions. The Investment Tax Credit, for example, offers significant incentives to reuse vacant buildings. Local commissions should be aware of the community's plans to close or sell property and should be prepared to make recommendations for reuse. The commission could also take an active role in seeking developers to adaptively reuse existing structures in the community that are presently vacant or underutilized.

Funding

The historical commission should follow the usual city or town budget and appropriation procedures to request adequate funds to carry out its work. The MHC recommends that local commissions develop and submit a reasonable operating budget annually, regardless of the commission's past success at receiving funds.

Ask for the funds you need

Most commissions in Massachusetts receive small annual appropriations to cover standard operating expenses. However, many commissions have developed larger budgets and regular funding. They have achieved success through a variety of approaches, although almost all have relied on past success, positive intergovernment relation, and well demonstrated needs to make their case for funding.

It is important to develop a reliable annual source of funding, however small, and to work to maintain that funding within the municipal financial structure. Reliable annual funding allows the commission to enhance its professionalism through awareness of, and communication with, national and statewide preservation organizations; to strengthen its ability to educate and inform the public about historic preservation and local resources; and to build a solid base of knowledgeable commissioners who can make informed, consistent, and reasonable decisions about the historic preservation issues facing the community.

The MHC strongly urges local commissions to become members of national and statewide preservation organizations. Such organizations provide valuable information, services, and technical assistance on historic preservation. Membership costs to such organizations as Historic Massachusetts, Inc., the National Trust for Historic Preservation, the National Alliance of Preservation Commissions, Preservation Action, and the Bay State Historical League should be included in the commission's annual budget request.

Typical operating expenses for a local commission include membership and conference registration fees, and costs of film, photo processing, and photocopying for inventory and other research, stationery, educational materials, postage, and clerical assistance.

With the approval of the board of selectmen or city council, the commission may also accept gifts, contributions, and bequests of funds from individuals and foundations, and appropriations of funds from federal, state, or other governmental bodies for the purpose of furthering the commission's programs. This provision allows commissions to receive private funds to assist them in their work.

It is wise to discuss procedures and to establish a process for the receipt and dispersal of funds with the local budgetary authority prior to accepting any funds. While the process for handling financial

matters varies from one community to the next, Chapter 40, Section 8d clearly establishes the right of the local commission to funding.

Many commissions have successfully administered municipal and private funding through their regular municipal budgetary process. Many other commissions have encountered problems obtaining funds and maintaining control over the dispersal of funds allocated to them.

Commissions should try to approach funding problems creatively. Establish discussions with the budgetary authority in your community to ascertain their concerns regarding funding or the commission's work. Consider establishing a nonprofit foundation or a trust account to hold commission donations separately from the General Fund. Or, establish a liaison with a related nonprofit organization, such as the local historical society, so that donations to the commission can be handled through the society.

With regard to ongoing budgets, it is important to remember to tailor budget requests to actual expenses and to spend allocations as intended. This can help ensure that unencumbered funds to the commission do not revert to the community's General Fund at the end of the fiscal year.

Commissions should also consider alternative means to raising funds for their work, such as funding through public agencies like the MHC, the Massachusetts Council on the Arts and Humanities, the local ARTS lottery, or through private sector sources, such as local foundations and funds. More creative solutions to funding problems have been developed by commissions. For example, the Cambridge Historical Commission convinced a local bank to sponsor a book of historic photos as part of the bank's 150th anniversary. Other commissions have sold T-shirts, held auctions and raffles, or run art shows or house tours to raise funds.

Staffing

Chapter 40, Section 8d states that, with the approval of the appropriate local authorities, the commission may:

- enter into contracts with individuals, organizations, and institutions for services furthering the objectives of the commission's programs;

- enter into contracts with local or regional associations for cooperative endeavors furthering the commission's program; and

- make and sign any agreement and undertake any activity that may be necessary or advisable to carry out the purposes of the Chapter.

Typically, local commissions enter into contracts with staff or with preservation consultants to assist with commission responsibilities; complete inventories; prepare National Register nominations, preservation plans, or historic structures reports; or administer historic districts, public information, or education programs.

When town-funded preservation projects are undertaken, it is standard practice to issue a "Request for Proposals" to elicit bids for the project from preservation consultants. The Request for Proposal (RFP) usually contains the scope of work for the project. The RFP should indicate the type of product(s) the commission is seeking, the time frame within which the project should be completed, and an approximate funding level. Communities can consult the MHC Preservation Planning division for assistance in developing a scope of work for the RFP.

The MHC maintains a file of resumes submitted by preservation consultants across the state. The file is open to the public for its use and to all preservation consultants whose qualifications meet federal standards for work in historic preservation or a related field. Interested persons should call the MHC to set up an appointment for reviewing the files.

Other sources for qualified persons to assist a commission in its work include: the Yankee Intern program of the National Trust for Historic Preservation; formal preservation studies programs, such as those at Boston University and Roger Williams College in Bristol, Rhode Island; and other local universities or colleges. Departments of history, archaeology, art history, geography, or landscape architecture can be especially helpful to preservationists.

Commissions should also explore the possibilities of using consultants to train a group of volunteers; sharing part-time staff among several neighboring commissions; and "borrowing" staff from the planning department or community development office.

Subject to appropriations, commissions may also appoint clerks or other employees as required to conduct their work. This may include hiring a preservation consultant as a staff person to handle administration, as discussed above, or appointing a secretary to prepare their minutes or accomplish other clerical duties.

Membership

Suggested Membership: As a minimum standard, the members of the local historical commission should be persons who have a genuine and demonstrated interest, competence, or knowledge in historic preservation. Equally important, members must be willing to contribute the time necessary to provide for effective operation of the commission.

Whenever possible, commission members should be appointed from among professionals in the disciplines of historic preservation, architecture, history, architectural history, planning, or archaeology, provided these people's interests also include historic preservation. Many (if not most) communities will not have professionals in these areas available to them. But when interested and sympathetic professionals are available, commissions are strongly encouraged to seek their participation as members.

Membership on the commission could also include a member of the local historical society, preservation consultant, landscape architect, planning board member, conservation commission member, lawyer, or archaeologist. These organizations should be able to provide local commissions with suggestions for members within the community or the region who may be willing to serve on the commission.

It is wise for a commission to maintain a list of individuals within the community who have expressed interest in serving on the commission and to regularly solicit new nominees from the community by placing announcements or articles in the local newspaper.

Cultivate new members

Commissions can begin to establish a broad base of support for preservation in the community by involving a larger number of people in their projects. This can be done by frequently rotating commission membership as appointments expire and by developing a base of volunteer support outside the commission.

Alternate Membership: Chapter 40, Section 8d, does not specifically allow for the appointment of alternate members to the local historical commission. At the commission's option, however, they may adopt procedures that unofficially call for special membership terms.

Each commission should determine whether it wishes to include additional persons in its operation and how those special members will interact with the duly appointed members of the commission. The Arlington Historical Commission, for example, calls on interested individuals to assist with the commission's work. "Associate" members are assigned to appointed commissioners to help with specific projects of interest to them. Additionally, volunteers are recruited to assist the "team" of a commission member and associate. Recruits are given a choice of activities and asked to express their preference for work on a project of their choice. In this way, the Arlington commission has been able to build into its ongoing work the recruiting and training of new members and to further its work throughout the community, at the same time lessening each individual member's share of the workload. This can be critical, given the heavy demands that may be placed on a local historical commission member's time.

If your commission does choose to broaden its membership through the use of "associates" and volunteers, remember that special members may not vote and cannot be included in quorums.

Appointments: Some commissions have had difficulty in getting the appointing authorities (boards of selectmen, town managers, mayors, or city managers) to make appointments to the commission when vacancies arise. Commissions may wish to maintain a list of its members and their terms of office, so that they can easily notify the appropriate appointing authority when these terms are up. It is also useful for commissions to present a list of recommended nominees (preferably at least two for each vacant seat) to the appointing authority for their consideration.

Appointments

Property

Under the terms of Chapter 40, Section 8d and in the name of the community, local historical commissions may acquire and manage historically significant property. This means that local commissions may hold and maintain historic properties or objects,

Preservation Restrictions

such as buildings or historical collections. In general, however, the MHC does not encourage local commissions in this direction. Instead, local commissions are encouraged to acquire preservation restrictions (which are less than fee simple interest) on properties since this maintains the property on the tax rolls and frees the Commission from the maintenance and liability cost of outright ownership.

Many commissions do own property either in the form of real estate (historic buildings and structures) or local historical collections (objects, papers, photographs). In general, ownership of historical collections requires less of a financial commitment than property ownership. Key to the responsible ownership of historical objects is provision for the proper storage and curation of the objects. Historical objects owned by local commissions should be publicly accessible and maintained in a public space, even if access must be limited.

Ownership of property usually involves a great commitment of funds and energy. Maintenance and liability costs are steep and history museums (the most common use for municipally-owned historic properties) proliferate in Massachusetts. Thus, competition both for the public's interest, and for public and private funds, is stiff. Before considering the acquisition of real property, local commissions should examine all other viable reuse options and should weigh carefully the following factors: projected short and long-term maintenance costs; property and liability insurance costs; handicapped accessibility and parking for the site; interception and display; fund raising potential.

Be cautious about ownership



Tools

CHAPTER FOUR



The Tools of the Trade

Since the beginnings of the modern preservation movement in the 1930s, and especially since 1966, the year of the National Historic Preservation Act's passage, preservationists have developed an increasing number of useful strategies and programs to assist them in the preservation of cultural resources. These "tools of the trade" are discussed in this chapter.

Commissions should consider the range of tools available to them and develop programs that use those tools effectively for local preservation. In general, the most effective tools for local preservation are those that are implemented locally: historic districts, scenic roads designation, site plan or subdivision review, demolition delay provisions, preservation restriction programs. Other tools, such as the National Register, have relatively limited value as protection mechanisms, but are important as vehicles for instilling local pride and developing public relations and educational material.

The tools discussed in this chapter provide the mechanism for carrying out preservation plans. Local commissions should determine how these preservation planning tools ought to be applied locally. Normally, various combinations of these tools will be appropriate within a single community. The ways in which these tools are used will depend on the unique character and circumstances of the community--its resources, threats, and personalities.

Identification and Evaluation

Survey

The survey base for the Commonwealth consists of survey forms submitted to the Massachusetts Historical Commission by the local commissions, professional preservation consultants, federal and state agencies doing environmental review, and private organizations and individuals. Once processed, the forms become the data base for both the local and the MHC's preservation programs. This data base is known as the Inventory of the Historic and Prehistoric Assets of the Commonwealth. Communities with little or no inventory will not be adequately represented in the Massachusetts Historical Commission's planning efforts.

Inventory: The basis for good planning

The Inventory of the Historic and Prehistoric Assets of the Commonwealth is the state's only centralized repository of data on its significant historic and archaeological remains. The inventory is maintained as a paper file and will be available in an interactive, computerized data base. All inventory forms submitted are catalogued, evaluated, mapped, and incorporated into the statewide inventory. In addition to the forms, the inventory also includes information on municipal development in the form of MHC reconnaissance survey town reports and maps. All staff evaluations of properties proposed for National Register listing are also filed with the inventory.

Local commissions should realize that inclusion of a property in the inventory does not confer any protective status on the property. Inclusion simply identifies and documents the historic or prehistoric resources of a community. While inclusion does not protect a property, it does provide important information on the presence of cultural resources, which is critical to MHC's environmental review responsibilities and serves as the basis for National Register nominations.

Inventory is not a protective designation

National Register of Historic Places

The inventory and other research relative to local and/or state history provide the information necessary to develop an historic context for a community's development, within which properties can be evaluated for listing in the National Register. Standard II of the Secretary of the Interior's Standards for Preservation Planning states that "properties are evaluated using a historic context that identifies the significant patterns that properties represent and defines the expected property types against which individual properties may be compared."

It is a longstanding policy of the MHC not to recommend properties for the National Register in communities that lack comprehensive inventories. This is because without the inventory, the MHC does not have enough information to provide an historic context and thus cannot complete a professional evaluation of the property. There are three exceptions to this policy. Properties may be nominated to the National Register under the following circumstances if they are: (1) income-producing properties where the owners will be using the Investment Tax Credit to conduct certified historic rehabilitations; (2) imminently threatened and will be substantially benefited by National Register listing; (3) of demonstrated state or national significance.

Nominations are accepted only from communities with completed inventory

The National Register of Historic Places is the federal government's official list of historic properties worthy of preservation. Buildings, districts, structures, sites, and objects can be listed in the National Register, either through individual nomination or, if appropriate, through National Register historic district nominations. Listing in the National Register provides national recognition of the importance of a particular resource and assures protective review of federal projects that might adversely affect the character of that resource.

Listing properties in the National Register involves three major steps at the state level and a final review and approval at the federal level. The first step local commissions should take to initiate the National Register process is to contact the MHC Preservation Planning Division staff to request an evaluation of the property's eligibility for the Register. If the inventory is complete and if staff find that the property meets the National Register criteria, a National Register application and manual will be forwarded to the local commission. The

Steps for listing a property

application can be completed by the local commission or by a professional preservation consultant, if the commission chooses to hire one. When a completed application is received, Preservation Planning staff review and edit the nomination, if necessary, and schedule it for consideration by the State Review Board.

The third step in the state process is for the State Review Board, a group of professionals in fields related to preservation, to review the nomination in detail and vote on the property's eligibility for listing in the Register. Finally, the nomination is forwarded to the Washington office of the National Park Service, which makes the ultimate decision as to whether the property can be listed in the National Register.

Generally, the process of listing in the Register takes about two years, from the MHC's initial evaluation to the actual formal designation. Because review of nominations is rigorous from the beginning, few nominations that reach the National Park Service level are ever rejected as ineligible for listing. However, local commissions should be aware that the process of listing is a long one. As a planning tool, the National Register is one that requires substantial lead time to implement. Nevertheless, the National Register is rightly called the backbone of the federal preservation program. All federally sponsored preservation programs hinge on National Register eligibility--the Investment Tax Credit, Section 106 environmental protection regulations, and grants-in-aid (when these are available; this program has not been funded since 1980) are open only to those properties eligible for or listed in the National Register.

The role of the National Register as a local planning tool develops from this link to the federal programs. Though diminishing, the federal government's presence in the so-called "entitlement" programs is still important. Many localities, especially cities, participate in federal entitlement programs such as those to provide low- and moderate-income housing, commercial and industrial revitalization funds, welfare and social assistance programs, and highway assistance funds. When funds from such sources affect historic properties, Section 106 environmental reviews take place. In communities with well-developed National Register programs (such as a community-wide nomination), local planners can assess the potential impacts of federal funding quickly while ensuring that historic properties will not be damaged.

Local planning and the National Register

Beyond its use in federal planning efforts, the National Register is a valuable tool to enhance local preservation efforts. The National Register provides a uniform set of criteria against which to evaluate properties. Application of the National Register criteria to all inventoried properties results in a list of evaluated properties recommended for protection, whether that is through actual National Register listing, which provides only limited protection, or through stronger local programs. Uniformly evaluating all surveyed properties against the National Register criteria ensures that all properties worthy of preservation are identified and can be included in local protection and planning efforts.

One of the National Register's best uses is as an educational and informational tool. National Register recognition is a rare honor--only about 32,000 properties throughout the Commonwealth are so designated. National Register listings are a valuable opportunity for local commissions to generate positive publicity for preservation and for the listed property, and to educate the general public about community history. Whenever National Register listings occur, commissions should take advantage of the event with special publicity and programs announcing the listing to the community at large. Newspaper articles, recognition ceremonies, and exhibits at the local library or town hall are possible programs for commissions to consider.

Protection

The traditional protection programs of preservation rely on regulatory controls imposed at one of the three levels of government: local, state, or federal. Typically, local controls are the strongest. Communities may impose regulations on themselves, such as those for local historic districts that affect private property owners. State and federal preservation controls apply only to projects that have a public component, through funding, licensing, or permitting. There are no federal or state preservation protection tools that impose restrictions on private property owners whose projects have no public component.

Local Historic Districts

Local historic districts are the oldest and strongest form of protection for historic properties. The constitutionality of local historic districts is established in the police powers given to localities; basically, local district controls are a form of "aesthetic" zoning. Judicial decisions over the last half century have upheld local and state efforts to protect historic places through protective legislation. The Supreme Court affirmed the constitutionality of "aesthetic" zoning in 1954 with Berman vs Parker and further clarified the constitutionality of local controls for preservation in 1978 in Penn Central Transportation Company vs New York City. The Penn Central decision demonstrated that the controls imposed through local districting did not constitute a "taking" of the affected property owner's rights.

Local historic district: The strongest form of protection

One of the tests of the constitutionality of an historic district is whether the area for designation has been identified in a manner that is neither arbitrary nor capricious. In order to assure that districts are fairly delineated, commissions considering historic district controls must conduct comprehensive surveys of the general areas under consideration for districting.

Completion of a survey is necessary in order to determine those areas that merit historic district designation. The inventory information is also important in assisting historic district commissions to carry out their design review authorities. The inventory allows historic district commissions to determine appropriate treatments for proposed changes to historic properties.

If potential areas for local district designation have been identified, the local commission may recommend the appointment of an historic district study committee by the board of selectmen or city council. An historic district study committee is mandated to study the feasibility of creating historic districts in the community; to determine boundaries for such districts; and to develop ordinances or bylaws for their adoption.

Massachusetts has some of the earliest legislation for historic districts in the country. The Massachusetts enabling legislation (Chapter 40C) is very broadly written and allows great flexibility to localities in developing bylaws and ordinances. The optional exemptions allowed in Chapter 40C enable the implementation of local controls that range from very strict to comparatively relaxed. The range of options can thus be fitted to the particular circumstances of each district.

*Communities have flexibility
in how districts are defined*

For example, an intact village center retaining an early 19th century character and setting might warrant strict provisions governing almost all aspects of change to the buildings and their landscaping. In an inner-city area with a mix of altered and intact buildings, historic district controls might focus on retaining key elements of the area, such as height and materials, through controlling new construction and major alterations, change while allowing certain types of minor change without review.

As part of their planning efforts, local historical commissions might identify key areas of their community that merit historic district controls, either because of their important historic, architectural, or community identity value or because of the nature of the threats to the area, which include: indiscriminate or insensitive new construction, development pressure, or inappropriate renovation. Commissions should also analyze the climate for such controls and consider public informational programs to help educate the community about the value of historic districting.

State Register of Historic Places

In 1982, a bill enabling the establishment of the State Register of Historic Places was passed in Massachusetts. The State Register bill provides for environmental review of state-funded projects and establishes a review process parallel to that for federal projects. Unlike the National Register, to which properties can be nominated, listing on the State Register is automatic and only occurs when a property is designated through some other preservation program.

The State Register is a compendium of all eight types of designation that are possible under federal, state, or local law in Massachusetts. These eight designations are National Historic Landmarks, Massachusetts Historic Landmarks (program defunct), Massachusetts Archaeological Landmarks, Local Landmarks, National Register of Historic Places, Local Historic Districts, Preservation Restrictions, and properties formally Determined Eligible for listing in the National Register by the Secretary of the Interior. Any property protected through any of these programs is automatically included in the State Register.

The State Register includes approximately 2,000 listings affecting just over 32,000 properties in Massachusetts. It is updated annually by the MHC. All commissions should keep a copy of the State Register in their files. Commissions should also review the State Register listings for their community to ensure that these are accurate.

The State Register creates a single, easy-to-use master list of properties designated under numerous local, state, and national statutes. It also establishes a comprehensive and timely system of review for all government bodies whose actions may affect designated properties.

The State Register review process provides for MHC review of any projects affecting designated properties that use state funding. In addition to projects initiated and paid for by the state, such as the acquisition of state forest land or the construction of educational facilities, there are numerous state agencies that assist localities by funding or partially funding local projects.

It is the responsibility of the funding agency to consult the State Register to determine if there are any State Register-designated properties affected by a proposed state project. State agencies

What is the State Register?

State Register review process

must consult the State Register early in the planning process for any project in order to eliminate, minimize, or mitigate any potential adverse effect to a listed property.

Environmental Review

It is important for local commissions to understand what environmental reviews, like the State Register process, can and cannot do. Environmental reviews establish a process whereby the public has an opportunity to consider the ways in which public projects may affect various aspects of our environment, both natural and cultural. Environmental reviews allow for consideration of alternatives to proposed projects and set up a consultation process for all parties to meet to discuss those alternatives in an open forum.

A procedure for considering alternatives

Environmental review is not a guarantee that a particular project can be "stopped." When an agency funds a project that it determines will have an adverse effect on a State Register-designated property, it is required to consult with the MHC to consider alternatives to eliminate, minimize, or mitigate that adverse effect.

What are the limits?

If a local commission learns of state-funded projects in the community that may have an adverse effect on State Register property, they should contact the MHC. The local commission should research the project to determine what the project entails, what the funding agency is, what local agency will receive the funding, and how the State Register property will be affected. Local commissions can be "consulting parties" in the process of examining alternatives and arriving at a negotiated agreement.

Local commissions should be aware of local projects that may be using state funds and should inform the MHC if it does not appear that state funding authorities have complied with the State Register provisions.

Federal "Section 106" environmental reviews operate under similar provisions to those for the State Register. The major difference between federal and state reviews is that a property need not actually be formally designated as historic in order for the federal review to occur: even properties simply believed to be eligible for listing in the National Register of Historic Places are subject to Section 106 review. (For the State Register process to occur, the property must actually be listed on the State Register.)

Section 106

In the case of 106 reviews, MHC staff are informed of pending federal projects and evaluate the properties to see if they meet the National Register

criteria. If the property is found to be eligible for National Register listing, the federal consultation process is initiated.

Local commissions are an important link in the process, since the MHC is sometimes not informed of projects that would require either state or federal environmental review. Commissions should notify the MHC whenever they learn that a federal- or state-funded project may affect a designated State or National Register property. In addition, if a commission suspects that federal monies will be used in a project affecting an undesignated historic property, they should inform MHC staff. Staff can then contact the funding agency for further information and initiate the review process if appropriate.

What is the local historical commission's role?

For the MHC to comment on the possible effect of federal projects on historic properties, it must know if any historic properties exist in the project areas. For this, the MHC depends on the inventory submitted to it by local commissions.

State and federal programs affecting local resources may include Housing Improvement Programs, Commercial Area Revitalization Districts, Urban Development Action Grants, Small Cities Grants, Community Development Investment, Executive Office of Communities and Development (housing), Massachusetts Housing Finance Agency, Massachusetts Industrial Finance Agency, School Building Assistance Bureau, Federal Home Mortgage Agency, and Federal Depositors' Insurance Corporation (permitting).

Preservation Restrictions

Preservation restrictions provide for the protection of a property either in perpetuity or for a set period of years. Restrictions are placed on the property by the owner and run with the deed for the property. Income and estate tax benefits may accrue to property owners who donate perpetual restrictions to qualified nonprofit organizations or local governments. Preservation restrictions may be held by state or local government units or by private nonprofit charitable organizations, and are governed by Chapter 184 of the Massachusetts General Laws.

A preservation restriction has long-term implications for the use and disposition of property, and owners should be counselled to seek legal advice before entering into a restriction on their property. Nevertheless, local commissions should be aware of the basic facts relating to restrictions and should be prepared to direct interested property owners to obtain further information about preservation restrictions if necessary.

The value of preservation restrictions as a protective tool is also important for local commissions to consider. The placement of a preservation restriction on an endangered property can be a good way to ensure the long-term preservation of the property in active use.

While local commissions can acquire property, the MHC does not recommend that they do so without first establishing mechanisms for the upkeep of the property over time. Instead, the MHC recommends that local commissions hold preservation restrictions on properties. Preservation restrictions held by local commissions give the commission review over significant features as those which are identified in the restriction, thereby ensuring the building's preservation, but do not remove the property from the tax rolls or create a burden of liability and maintenance for municipal budgets.

Several cities and towns in Massachusetts have implemented local preservation restriction programs for the purpose of preserving significant historic structures. Among these are Ipswich, Springfield, and Worcester. In the case of Ipswich, preservation restrictions on some of the town's most significant 17th century houses are held by the local commission. In both Worcester and Springfield, private, nonprofit preservation organizations, working with the local commission, hold preservation restrictions on a variety of buildings throughout the community.

Financial Incentives

Financial incentives for preservation of historic properties are limited. There are no state or federal grant or loan programs available to assist private property owners with the costs of restoration, for example. Despite this, there are several important programs that provide some forms of monetary assistance to certain types of historic property. The major incentive programs for historic preservation are: the Historic Preservation Certification program, which allows for a 20% Investment Tax Credit for certified rehabilitations of income producing property; and the Massachusetts Preservation Projects Fund, a state-funded grants-in-aid program for restoration or acquisition of nonprofit or municipal property.

Investment Tax Credits

The Investment Tax Credit for certified rehabilitations of historic property is one of the very few such credits to have survived the recent tax reform efforts. The Tax Reform Act of 1986, signed into law on October 22, 1986, establishes two Investment Tax Credits for the rehabilitation of income-producing older buildings. A 10% tax credit is available for the rehabilitation of buildings built before 1936 that are not listed in the National Register. A 20% tax credit is available for the rehabilitation of income-producing National Register properties.

The Investment Tax Credit is a major tool in Massachusetts preservation. Since the inception of the tax credit program in 1976, over one billion dollars in rehabilitation of National Register properties has taken place. Well over 10,000 units of housing have been created through tax-credit rehabilitations. Through the tax credit, major classes of buildings have been recognized as worthy of preservation, and hundreds of underutilized or vacant Massachusetts buildings have been brought back to life. The retention of the tax credit in the 1986 Tax Reform Act ensures that this program will continue to be a vital part of preservation in Massachusetts.

To be eligible for the 20% Investment Tax Credit, a property must be listed in the National Register, either individually or as a contributing element of a National Register district, and must be income producing. The Investment Tax Credit is given for the cost of rehabilitation work done according to the Secretary of the Interior's Standards for

*Eligibility for the 20%
Investment Tax Credit*

Rehabilitation, a set of guidelines that lay out acceptable treatments for the rehabilitation of historic building fabric. To initiate the process of obtaining the tax credit, property owners must complete an Historic Preservation Certification Application.

The Certification Application consists of several sections and is designed to ensure that historic features of the building that were present prior to the rehabilitation are retained after the completion of the work. Applications are reviewed both by MHC staff and by the National Park Service's Mid-Atlantic Regional Office. Final decisions regarding the acceptability of rehabilitation work done for the tax credit are made by the National Park Service.

Certification Process

Local commissions should be aware that the certification of properties to receive the tax credit is a long and complicated process. There are several cautionary notes regarding the program. First, it is generally not possible for properties to be certified for the tax credit after rehabilitation work has been completed; rarely is a property owner's documentation of the "before" rehab condition of the property sufficient to meet the requirements of the certification application. Secondly, property owners should be advised to consult with the MHC staff and with a tax attorney or accountant familiar with the tax credit before commencing any work on their property. Finally, local commissions should realize that the certified rehabilitation program is generally most effective for large-scale preservation projects. Individual property owners may not find it worthwhile to undertake a certified rehabilitation of their property.

Despite these cautions, local commissions should consider the value of the Investment Tax Credit when formulating preservation plans. It is especially worth considering the tax credit as a vehicle for assisting with commercial area revitalization, obtaining new uses for vacant or underutilized buildings in the community (particularly institutional, industrial, commercial, or large residential buildings), and developing reuse proposals for municipal property (such as schools) due to be disposed of by the community.

Massachusetts Preservation Projects Fund

The Massachusetts Preservation Projects Fund was established in 1984 as a grant program to assist municipalities and nonprofit organizations with the preservation and maintenance of their property. To be eligible for the fund, properties must be listed in the State Register of Historic Places. The fund operates as a matching grant-in-aid program wherein participating organizations are reimbursed at the conclusion of the project for half of the total project costs of the grant. MPPF money can be used for construction costs of restoration or maintenance work, for research to protect a State Register property, or for acquisition of an endangered State Register property.

Grants are awarded annually on a competitive basis. In recent years, the fund has stood at roughly one million dollars. On average, forty projects are funded each year. The application process consists of two phases: a pre-application, distributed in the fall, and a full application, completed in the spring. Grants are awarded in July, with all work to be completed by the following June.

The Massachusetts Preservation Projects Fund was established in response to the great need felt at the local level as historic municipal and nonprofit properties faced diminishing levels of funding for maintenance and preservation. Proposition 2 1/2, for example, has meant that communities have fewer funds to put into their historic properties, which are sometimes of great historic or architectural value. Nonprofit organizations, especially small local museums, traditionally face difficulties funding major work on their structures. The MPPF is designed to assist with these projects.

Local commissions should identify MPPF-eligible properties in their community and develop priorities for applications to the fund. In particular, commissions should be familiar with the status and condition of key municipal and nonprofit properties in their communities. Since there is no independent mechanism to list properties on the State Register of Historic Places, commissions should initiate efforts to designate properties for MPPF eligibility far in advance of any applications to the fund. The standard designation through which properties become eligible for the MPPF is the National Register of Historic Places. Nominations of property to the National Register for MPPF eligibility must be made in accordance with MHC's National Register policy.

Planning and Zoning

Many of the traditional preservation programs, such as the National Register and Section 106 review, focus on the state and federal levels of government. To be most effective, though, the local commission's work must be firmly rooted at the local level. The commission's programs should extend well beyond the traditional state/federal-focused programs and should have a strong connection with the ongoing process of municipal planning.

Planning for preservation is no different than any other form of planning. One first needs to identify the problems and areas of need and then to develop the solutions and the tools for the implementation of the solution. Local historical commissions should be the local source for information on the community's historic preservation problems and solutions, and this information should become part of the community's overall planning strategy.

In order to be included in the planning process, local commissions must first understand the rules of the game and its players' roles. Local commissions should be familiar with the local planning, zoning, and conservation ordinances, the boards and commissions that administer those ordinances, and the procedures for participating in their programs.

There are many ways for the local commission to become involved in local planning. Commissions can and should be regular advisers to planning and zoning boards and conservation commissions, using the inventory, National Register, and other designations as the basis for commenting to these bodies on projects before them. Commissions can formalize their commenting role by writing themselves into local planning ordinances. They can establish and publicize their own goals through published preservation plans, and they can work with other local planners to coordinate and strengthen each other's programs.

Preservation Plans

A Preservation Plan is a formal document that analyzes the preservation issues confronting a community and presents recommendations for the resolution of those issues. It is generally published and distributed throughout the community to all local decisionmakers so that it can be incorporated into the community's overall planning efforts. The Plan serves as the local commission's goal statement and sets out a series of tasks for

the commission to undertake, along with priorities and a time frame for completion of those tasks. A formal Preservation Plan is an excellent means of disseminating information about the commission's goals and purpose, and of strengthening the commission's image as a competent and professional planning body.

Generally, Preservation Plans include some combination of the following elements:

Elements of a Preservation Plan

- a summary history of the growth and development of the community;
- an analysis of all of the architectural styles represented in the community;
- a survey of the significant structures and areas in the community (this listing will usually include all of the properties listed in the inventory submitted to the MHC);
- a map showing all cultural resources surveyed (except archaeological sites);
- a statement of the local commission's preservation policy and overall objectives;
- recommendations for preservation measures for specific properties or areas (these might include but are not limited to the following: National Register nomination, local historic district designation, scenic road designation, acquisition of preservation restrictions, and amendment of zoning ordinances);
- identification of funding sources for preservation projects in the community (these might include Massachusetts Preservation Projects Fund grants, Housing and Urban Development Community Block Grant funds, National Endowment for the Arts grants, and Architectural Conservation Trust for Massachusetts revolving fund assistance);
- recommendations for the integration of preservation goals and objectives into the community planning process.

Preservation Plans can be developed by the commission or by preservation consultants. Communities that have published Preservation Plans include Andover, Arlington, Barnstable, Brookline, North Adams, Somerset, and Woburn.

Master Plans and Open Space Plans

Master planning and open space planning projects are underway in many Massachusetts communities, as development pressures for new industrial, residential, and resort development increases. Master plans and open space plans are usually prepared by planning firms under contract to communities. Historic preservation concerns should always be incorporated in overall efforts to develop master plans and open space plans. If master planning or open space planning is being considered, local commissions should identify their preservation planning concerns as a component of these efforts.

Master planning is a broad means of securing preservation goals. Master plans must develop from the specific concerns of each community. Communities whose master plans include historic preservation components include, Chilmark, Lincoln, and Somerset.

For more information about planning and zoning issues, local commissions should contact their local planning and zoning boards or the regional planning agency for their area.

Demolition Ordinances

Demolition delay ordinances are established as special municipal ordinances under the Home Rule provisions afforded all municipalities. A demolition delay ordinance is a mechanism whereby demolition permits for certain buildings throughout the community are delayed for a specified period of time in order to allow for consideration of preservation options. Generally, a demolition delay ordinance is triggered by an application for a demolition permit on an historic property.

To address the demolition issue as early as possible, many commissions have informal or formal agreements with the building inspector to review and comment on any demolition permits or applications for all properties that are either included in the inventory or listed in the National Register. Traditionally, demolition ordinances delay the granting of a demolition permit for a set period of time--six months, for example--in order to allow preservation solutions to be considered. This delay period gives the commission time to contact owners who may not be aware of their property's significance or of the potential benefits of preservation (including the Investment Tax Credit for certified rehabilitation and the Massachusetts Preservation Projects Fund), and to develop alternative proposals or to seek other outside assistance for preserving the structure.

The demolition delay ordinance is a way to bring the gradual attrition of historic resources through demolition into the sphere of community planning. Since the ordinance does not prevent demolition, it does not alter the property owner's right to use the property as he sees fit. The delay does give the preservation community and the community at large an opportunity to develop alternatives and to consider the preservation of the property in a less emotional atmosphere than normally accompanies the news of a demolition.

Generally, the ordinance specifies that certain categories of "historic" properties are automatically included under its provisions. These categories could be all properties over 50 years of age, included in the community's inventory, or listed in the National or State Register in the community. In most cases, the local commission must review the permit application to determine if the property is one they consider significant. Permits for buildings found not be significant can then go forward without delay. Options that are normally

Demolition Ordinances allow time to seek alternatives

Review provisions

sought for a threatened building include identifying new uses for the property, locating buyers willing to preserve the structure, incorporating the structure as an element of larger development plans, or as a last resort, moving the property to a new location.

The adoption of a demolition delay ordinance is one of the best ways for a local commission to handle issues of demolition. In communities undergoing expansion and new development, the demolition delay ordinance may bring an important measure of control to the process of change and may help to ensure that vital components of the community's historic fabric are retained. It is important to consult with your town counsel or city solicitor and with the building inspector if your commission is considering proposing a demolition delay ordinance. Communities that have adopted demolition ordinances include Cambridge, Fall River, Lexington, New Bedford, Newton, Salem, and Saugus.

Scenic Roads

Many Massachusetts communities have adopted scenic road designations to protect their historically and aesthetically critical streetscapes. Under Massachusetts law, communities may vote to establish any unnumbered route or road in their community that is not a state highway as a scenic road. The designation of such roads takes place under Chapter 67 of the Acts of 1973, as amended.

Scenic road designation means that the written consent of the planning board must be obtained before doing any repair, maintenance, reconstruction, or paving of the road that involves cutting or removal of trees, or demolition or destruction of stone walls. Scenic roads designation may be recommended to the community by the planning board, conservation commission or historical commission. Designation of a road as a scenic road does not affect the community's ability to receive state aid for construction or reconstruction of the road.

Massachusetts' scenic road legislation is very broad. It does not define what constitutes a scenic road, nor does it establish criteria to assist communities in identifying their scenic roads. It is up to the community, through its planning board or conservation or historical commission, to identify and propose roads for designation.

Local commissions should be aware of the presence of any designated scenic roads in their community. If there are no scenic roads in the community, the commission should consider using this provision as part of their effort to identify, protect, and preserve important aspects of the community's cultural landscape. It should be noted, though, that scenic road designation does not prohibit changes from occurring along such a road. It simply establishes a process whereby the planning board must provide consent to changes that involve cutting or removal of trees or tearing down or destruction of stone walls. Other changes to scenic roads are allowed.

Scenic road designation involves preparation of a bylaw or ordinance to designate, and presentation of the bylaw or ordinance to town meeting or city council. Regional planning agencies may be able to provide information on communities in your area that have designated scenic roads.

Zoning

Zoning controls in Massachusetts are enacted under the state's zoning enabling legislation, Chapter 40A of the Massachusetts General Laws. Zoning controls under Chapter 40A generally regulate such aspects of construction as the use, bulk, height, setbacks, and lot coverage of buildings on a particular lot. Zoning can also regulate other aspects of construction such as lot density, lot area, open space, parking, and signage. Zoning controls differ from historic district controls in that, unlike historic districts controls, zoning cannot regulate the aesthetic qualities of properties.

Local commissions should be generally familiar with their community's zoning provisions and should consider the ways in which zoning provisions affect historic properties. In particular, it is useful for the commission to be aware of the zoning maps for the community, and to understand the ways in which the various types of zoning in effect for a certain area will affect its character and future development. It should be possible for local commissions to identify areas of future development by analyzing the zoning maps; if these areas coincide with areas of historic concern, amendments to the current zoning (downzoning) should be considered.

In addition, local commissions should determine whether their community has adopted cluster zoning provisions and where such zoning has been implemented in the community. Cluster zoning can be an extremely effective tool for the preservation of important aspects of the cultural landscape and of historic settings. Cluster zoning can be used to preserve open space that is either naturally or culturally significant. Under cluster zoning provisions, subdivisions are "clustered" on a portion of the developable land, leaving the remainder open. Conservation or preservation restrictions on the undeveloped portions of the parcel are normally required to be donated to the community as part of the development. Donation of a restriction can be financially attractive to the developer, thus enhancing the value of cluster zoning for natural or historic preservation.

Cluster zoning

The use of cluster zoning has been particularly successful in preserving archaeologically sensitive areas from further development. Several developers in Massachusetts have worked with the State Archaeologist to cluster zone subdivisions that would have adversely affected archaeological sites. In these cases, standard subdivisions were

redesigned as cluster developments, with the archaeological sites protected as open space. Preservation restrictions were then donated on the archaeological sites.

This approach could also be used to preserve standing structures in their historic settings or to protect historic landscape areas.

Under the community's zoning provisions, additional special requirements may be superimposed on existing zoning for areas of special concern. These overlay zoning districts can be developed to coincide with areas of historic preservation concern, such as local historic districts, National Register districts, or other areas of historic or community significance. Such special zoning overlay districts for preservation have been adopted in Northampton and Cambridge.

Overlay zoning districts

Site Plan Review

Many local planning and zoning ordinances give the planning or zoning board special permitting authority to review certain sizes and types of site developments. Local historical commissions should review their municipal planning and zoning code to identify potential roles for themselves within the general process of site plan review.

Site plan review allows for a measure of design review on new developments. Normally, provision for such review evolves as a special permitting authority under special provisions in the zoning regulations. Site plan review allows for review of factors such as the placement of buildings and environmental impacts like traffic, noise, and effects to natural or cultural resources in a project area. The site plan review provisions of the zoning code establish comprehensive standards that must be met by a proposed development. They do not allow zoning boards to reject proposals that meet the established standards, but they do allow parameters for development to be drawn. Historic preservation concerns can be incorporated within the criteria for successful site plan review.

Local commissions can write themselves into the site plan review process as commentators on properties meeting an historic preservation criteria in the site plan review provisions. For example, for any project including an inventoried historic property, or within a certain number of feet of an historic property, the developer would be required to submit plans for review not only to the zoning, planning, and health boards, conservation commission, building inspector, and town engineer, but also to the historical commission for its review. The historical commission would have a specified time period within which to respond to proposals with its comments. Commissions would then be kept abreast of current development proposals in the community and would be able to ensure that preservation concerns are considered as part of new development.

Subdivision Controls

Subdivision control regulations are established under Chapter 41 of the Massachusetts General Laws and govern such aspects of subdivisions as adequate access, emergency safety, adequate utilities, and municipal services and circulation. While other aspects of subdivision, such as landscaping and environmental impacts, are not considered under subdivision controls, the mechanism for submitting subdivision plans to various municipal bodies may provide an opportunity for the local commission to be included in subdivision reviews. In this case, subdivision plans would be submitted to the local commission for their comments.

APPENDICES

A. MGL Chapter 40, Section 8d

A city or town which accepts this section may establish an historical commission, hereinafter called the commission, for the preservation, protection, and development of the historical or archaeological assets of such city or town. Such commission shall conduct researches for places of historic or archaeological value, shall cooperate with the state archaeologist in conducting such researches or other surveys, and shall seek to coordinate the activities of unofficial bodies organized for similar purposes, and may advertise, prepare, print, and distribute books, maps, charts, plans, and pamphlets which it deems necessary for its work. For the purpose of protecting and preserving such places, it may make such recommendations as it deems necessary to the city council or selectmen and, subject to the approval of the city council or the selectmen, to the Massachusetts Historical Commission, that any such place be certified as an historical or archaeological landmark. It shall report to the state archaeologist the existence of any archaeological, paleontological, or historical site or object discovered in accordance with section twenty-seven C of Chapter nine, and shall apply for permits necessary pursuant to said section twenty-seven C. The commission may hold hearings; may enter into contracts with individuals, organizations, and institutions for services furthering the objectives of the commission's program; may enter into contracts with local or regional associations for cooperative endeavors furthering the commission's program; may accept



gifts, contributions, and bequests of funds from individuals, foundations, and from federal, state, and other governmental bodies for the purpose of furthering the commission's program; may make and sign any agreements and may do and perform any and all acts which may be necessary or desirable to carry out the purposes of this section. It shall keep accurate records of its meetings and actions and shall file an annual report which shall be printed in the case of the towns in the annual town report. The commission may appoint such clerks and other employees as it may from time to time require. The commission shall consist of not less than three nor more than seven members. In cities the members shall be appointed by the mayor, subject to the provisions of the city charter except that in cities having a city manager form of government, said appointments shall be by the city manager, subject to the provisions of the charter; and in towns they shall be appointed by the selectmen. When a commission is first established, the terms of the members shall be for one, two, or three years, and so arranged that the terms of approximately one third of the members shall expire each year, and their successors shall be appointed for terms of three years each. Any member of a commission so appointed may, after public hearing if requested, be removed for cause by the appointing authority. A vacancy occurring otherwise than by expiration of a term shall in a city or town be filled for the unexpired term in the same manner as the original appointment. Said commission may acquire in the name of city or town by gift, purchase, grant, bequest, devise, lease, or otherwise the fee or lesser interest in real or personal property of significant historical value and may manage the same.

